

Ravalli County Open Lands Board
Meeting Minutes for March 29, 2007
6:30 pm
Teller Wildlife Refuge Slack Barn

This is a summary of the meeting, not a verbatim transcript. A CD of the meeting may be purchased from the Planning Department for \$5.00.

1. Call to Order – Dan Walker called the meeting to order at 6:37 p.m.

A. Roll Call (See Attachment A, Roll Call Sheet)

i. Members

Phil Connelly (present)
Dan Dunagan (present)
Jim Ellingson (present)
Dan Kraft (present)
Gary Leese (present)
Alan Maki (present)
Kent Myers (present)
Mike Pflieger (present)
Craig Siphers (present)
Tim Tackes (absent – excused)
John Vore (present)
Dan Walker (present)
Paul Wilson (absent – excused)

Ex-Officio Members

Rob Johnson (absent – excused)
John Ormiston (present)

ii. Staff

Jennifer De Groot
Karen Hughes
Vanessa Perry

iii. Public

Linda Dworak
Dan Huls
Greg Lemon

B. Approval of Minutes – Dan Walker asked if there were any corrections or additions to the minutes from the March 13, 2007, meeting. **Gary Leese** noted a few last names were misspelled. **Kent Myers** motioned to accept the minutes contingent on name corrections. **John Vore** seconded the motion. The minutes were unanimously approved with corrections.

C. Amendments to the Agenda – There were none.

2. Presentation on Missoula County Open Lands Program

Patrick O'Herren said that the \$10 million bond passed in Ravalli County is inspiring. He noted that Missoula County passed a \$10 million bond, divided so that \$5 million is spent in the Missoula Planning Region (urban) and the other \$5 million is spent outside of that area. Both the City and County have different application processes. He distributed a map that showed the planning regions. (See Attachment B, Missoula County Planning Regions)

He stated that their process is very open. Their Board of County Commissioners (BCC) made it clear that the Missoula Open Lands Citizen Advisory Committee (OLCAC) must be transparent to the public. All communications, applications, meetings, subcommittee meetings, field trips to sites, minutes, emails, and contact information are open to the public and many of them are on their website. He noted that the public needs to know how the \$10 million was spent because they consider this the first bond of many and because it is a requirement of State Law to make everything open to the public. He noted that at first the OLCAC was wary of public participation, but now they want the public to be more involved so they can know both the OLCAC's problems and successes.

He stated that their OLCAC consists of 13 members, with four alternates, appointed from planning regions mostly outside urban areas of the county. The OLCAC has a dual mission: to review applications for bond funding and to act as a conduit between rural areas of the county and the BCC. They created a separate subcommittee to deal with the second mission, which is also their largest mission. He stated that their OLCAC will continue whether or not a second bond passes because issues with ranching, farming, timber production, and rural issues need to continually be addressed.

He passed out an agenda for the next OLCAC meeting. (See Attachment C, Draft Agenda for OLCAC April 19, 2007, Meeting) He said that the Committee meets the third Thursday of every month and welcomed the OLB to attend. He thought it would be beneficial to have the OLB and OLCAC meet together since they will probably have a project that crosses county lines at some point.

He noted that they looked at programs across the nation and hired someone to look at applications. They rejected Gallatin County's application and did something different.

He distributed a project application the OLCAC received. He thought it would score high and set a precedent. (See Attachment D, Sunset Hill Conservation Easement Project)

He noted that the numeric evaluation system they use is only a guide and ranks are subjective. He explained that the OLCAC members take home the Level II evaluation criteria to rank it. They only bring back the totals, keeping the rest of the scores to themselves. He thought that process would not last for very long.

He explained their OLCAC process as follows:

- Applicant submits a Level I application.
- The Level I application is given to the full committee as an information item.
- Staff meets with the applicant/representative before submittal of Level II application to discuss potential issues.
- Level II application is submitted.

- Staff distributes it to the OLCAC and a second meeting is scheduled.
- The applicant or representative presents the information to the full committee. The OLCAC has the opportunity to ask questions.
- The OLCAC, applicant/representative, and Staff go on a site visit.
- A third meeting on the proposal is scheduled before the OLCAC. The proposal is placed on the agenda as Old Business.
- The OLCAC votes on the item.
- The recommendation is forwarded to the BCC.

(See Attachment E, Level One Application, Attachment F, Level Two Application for Funding, and Attachment G, Level Two Evaluation for Funding)

He anticipated that Staff may evaluate a project differently than the OLCAC, probably in funding. He noted that an applicant may ask for a specific amount, but the OLCAC can recommend something else. He explained that if no decision can be made at the meeting, the OLCAC will forward two recommendations to the BCC.

Mike Pflieger asked if the evaluation criteria take into account matching dollars.

Pat replied that they do and there is a Proposed Funding section in the application.

Phil asked if all of the scoring areas carry the same weight.

Pat replied that they do.

Phil asked how the OLCAC deals with a project that sounds good, but may have fairly low scores for other reasons.

Pat replied that the OLCAC thought the overall ranking will determine the score and they also have the disclaimer that the evaluation system is only a guide.

Dan Walker noted that timing is not on the side of the landowner and asked how to streamline the process so a good project does not die.

Pat replied that Staff was involved in creation of the Open Lands Program and participates in interviews. The BCC does not want the process to stand in the way of a project. He stated that the OLCAC and BCC might need to have special meetings and Staff will need to put in extra hours to meet time mandates.

Mike Pflieger asked how many funding cycles they use.

Pat replied that the OLCAC takes applications as they are submitted and does not compare projects, but judges them on their own merits. He stated that the Board meetings are becoming three hours long and they might consider a second meeting every month to get through all of the proposals.

Phil asked how the application process works.

Pat said that the OLCAC accepts applications from the landowner or trust. They did not want to say that an applicant has to go through a trust.

Mike Pflieger asked how the OLCAC qualifies trusts.

Pat replied that they have not addressed the issue yet, but might in the future. At this time, they are dealing with trusts that are well-known. He said that Staff will have serious discussions if they are approached by an obscure trust.

John Ormiston asked how much experience they have had with their evaluation criteria.

Pat said that it has been in use two months and the Board is ecstatic with it. They changed voting requirements from consensus to a simple majority, but recently their decisions have been consensus because people like the system.

John Vore asked about the trusts he has been working with and if they provide technical expertise or just projects.

Pat listed a number of trusts in the area, which he determined are all well-established and recognized nationally and at a state level.

Linda Dworak asked his thoughts on the Gallatin Valley evaluation criteria and what he did not like about it. She asked if the OLCAC created a preliminary bird's eye view of the area and listed hot spots where project applications would be prioritized.

Pat said that the OLCAC perceived that Gallatin's evaluation criteria has the appearance of being qualitative, but is subjective because it requires assignment of numbers. He said that they will try to rank projects, but will not rely on numbers. Their BCC was asked about where to spend the bond money. After discussion, there was a real likelihood that some of the regions in the county might not have a qualified project. He said it is unfair to designate \$1 million for a project in one region and lose other good projects somewhere else. He noted that the money will not be allocated geographically, but by the value of the project.

Phil asked if a project where landowners wanted to go through the process without assistance but wanted help with legal costs is viable.

Pat said it was. He noted that there is an inter-local agreement between Missoula City and Missoula County that outlines qualifying projects and the types of items for which they can be qualified, such as appraisals, property research, or hazardous material research. Technically, a project that comes before their BCC requires two resolutions: one qualifies it for funding and one approves it for a certain amount for a certain purpose. In response to a question about smaller projects, he stated that Missoula County is not interested in acquiring and managing land. They want to support projects that have matched funds.

Dan Walker asked how they should address a dual project between the OLCAC and the OLB.

Pat said he does not foresee that as a problem. He stated that they are developing an exceptional level of cooperation between Ravalli and Missoula counties because leaders are recognizing that their futures are linked. He stated that he is trying to improve it at the staff level and noted that he and Karen have been meeting. He noted that the new mayor

of Missoula invited both Ravalli County's and Missoula County's Board of Commissioners to meet with him.

Linda Dworak asked if he had the same feeling about other nearby counties.

Pat said that he started to make contacts in Mineral County and thinks there are opportunities there. He stated that Missoula County has a great relationship with Lake County and the tribes. He noted that he is meeting with Powell County next week and is optimistic about that. He noted that Sanders County disbanded their Planning Board and might be more difficult. He noted that overall there is cooperation. He was pleased to come to Ravalli County and visit with them on their issues.

Phil asked why the Missoula County OLCAC did not include minimum thresholds.

Pat explained that it was not included because some areas in the county do not have large easement areas. There may be a ten-acre parcel in a prime location that could be a good candidate. He said that he is expecting a two-acre submittal soon that is adjacent to a campground and national forest.

He said that the first OLCAC confrontation came at the fifth meeting over the mission of the committee. There had been a working lands group in place for a year looking at rural issues who wanted a \$20 million bond issue. Some of those group members were appointed to the OLCAC. Some of the new people on the OLCAC thought that their sole mission was to distribute the bond money; some older members disagreed. They resolved the conflict by going to their bylaws, which clearly state that their mission is to look at farming, ranch, agriculture, water quality and quantity, timber, and protecting rural lifestyle. He stated that they have a Subcommittee item on their agendas under Old Business. They discuss things they learned from the rural areas and how they did their outreach so they can learn from each other.

Mike Pflieger asked if urban/rural issues become a conflict if they can send the issue to the Right to Farm and Ranch Board (RFRB).

Pat said the OLB should address that with the RFRB. He noted that the OLB can take comment from the public, Staff, other County boards, or anyone. He noted that their OLCAC brought up an issue with the Missoula County Weed Board regarding reseeding areas after road construction/maintenance.

He asked the OLB to visit his department in Missoula. He said that he has multiple Staff people knowledgeable about their OLCAC and stated that Mike Harris in Gallatin County is also an incredible resource. He also noted that information about the OLCAC is available on the Missoula County website.

Dan Walker noted that although Missoula County's issues will be different, Ravalli County does not need to reinvent wheel. He stated that there is good work done and everyone can learn from each other.

3. Board Governance

A. Clarification/Answers to Governance Questions – Alternates

Dan Walker noted that there were some questions raised last week regarding alternates from respective boards attending Board meetings. He stated that an alternate can attend the meeting and sit at the table, but cannot vote. They can also receive documents and provide comments on behalf of the appointed representative.

B. Administration and Operations Budget

Dan Walker noted that the budget recently became an issue when he was attempting to bring in guest speakers for Board meetings. He asked Staff to look at budget options.

Vanessa presented the Board with a preliminary budget estimate. (See Attachment H, Sample Budget for Open Lands Board) She asked the Board to suggest any specific items that they wanted to work into the Board's budget for Fiscal Year 2007-2008. She noted that the mileage and mailing line items may need to be increased from the original estimates.

John Ormiston asked if mileage reimbursements are tax-deductible if Board members do not claim reimbursement from the County.

Vanessa said she would look into the answer.

Phil Connelly asked if there was a potential to charge a small fee for applications.

Karen said that they could when they determine the will of the Board and BCC. The Board needs to consider the cost of staff support, mileage reimbursements, etc. She noted that Missoula and Gallatin Counties did not want to charge application fees and the Board needs to find funding sources aside from the \$10 million bond.

Phil Connelly asked if they need to charge fees for legal ads.

Karen noted that it depends on process, but there will need to be legal ads published for public hearings. She said the Board needs to decide if the applicant or county should cover the costs. She noted that the Planning Department's budget hearing is on May 7 and the Board could discuss this further at their meeting in April.

C. Draft Bylaws

i. Board Review and Discussion

Dan Walker noted that the initial draft bylaws were reviewed by Staff and sent out to the Board. (See Attachment I, Open Lands Board Bylaws – Draft dated March 26, 2007). After receipt of many positive and helpful

bylaws, they sent out a final draft document. He noted that the bylaws need legal review and then will be forwarded to the BCC. The goal tonight is to finalize a draft and recommend the bylaws. He noted that Paul Wilson emailed some comments on the bylaws. (See Attachment J, Email from Paul Wilson). He recommended discussing the highlighted items and then moving on to other general items needing more discussion.

The Board recommended many changes to the bylaws, which are captured in the Final Draft of Bylaws. (See Attachment K, Open Lands Board Bylaws – Draft dated March 30, 2007).

Dan Walker asked, in reference to the top of Page 4, if the OLB could seek matching funds.

Vanessa said she would refer that to legal counsel.

John Ormiston said that his position should be listed as the Bitter Root Land Trust Board so it is clear that that the representative is not staff of the Land Trust.

Dan Walker said that issue is more of a legal question and asked if they should reference the resolution in the bylaws. He asked how the Board felt about term limits for officers.

Kent Myers was in favor of multiple-year terms.

Dan Huls suggested that officers have one-year terms and a three-year limit. It allows an officer the chance to resign and stay on board if he or she chooses.

Dan Walker noted that Teller has two-year subsequent term limit.

The Board agreed on a three-year subsequent term limit for chairman and vice chairman.

Phil asked if it was normal for Board members to be removed by public hearing.

Gary Leese said that it happened on the Park Board. Their process is to have someone present written charges, conduct a public hearing, and have the BCC make a decision. He noted that it gives the charged person a chance to speak.

Dan Walker asked who brought forward any written charges. He assumed it would be the Board.

Jim Ellingson asked if both the BCC and OLB could bring charges forward.

John Vore did not think their bylaws precluded the BCC from bringing forth charges.

Gary Leese said that if anyone submits a comment to the BCC about a Board member they believe is credible, the BCC will probably investigate and may want to take action immediately. He said it would be better for the BCC to hold the public hearing and take action than wait on a recommendation from the OLB.

The Board affirmed the language regarding removal of Board members. The Board also affirmed that only the member appointed by the BCC to represent each Board or category should be allowed to vote.

Gary Leese asked how closely the Board is going to adhere to the Open Meeting Law. He said that the Board would have to publish an agenda 48 hours prior to the meeting and not change it. He noted that it has been an issue with other boards.

Karen said that amendments to the agenda deal mostly with order, not major items. There will always be a public comment period for things not on the agenda. If something minor comes up, the Board can address it, but if it is an action item, it has to be deferred to the next meeting.

Dan Walker noted that the conflict of interest area of the bylaws came up as an issue. He noted that adjoining landowners would need to recuse themselves from the proposal discussion.

Karen said that Board members with conflicts of interest can participate in the discussions as a member of the public at the meeting and hearing on the proposal. She noted that adjoining land owners include people across road easements.

Mike Pflieger asked if a Board member would be considered an adjacent landowner if they were leasing a parcel next to a proposal.

Karen said that there comes a point between a true and a perceived conflict of interest. She said that if there is any perception of a conflict of interest, the Board member should disclose it. It is easiest for the Board member to recuse him or herself.

Dan Walker agreed that it needs to be added and creates transparency. He noted that some people or trusts do not want to disclose proposal information before they are ready for it to become public.

Dan Huls said that any possible link should be brought to the Board's attention. After the explanation, if the Board does not feel it is a problem, they can allow the member to participate. If they do feel it is a conflict of interest, they can ask the Board member to recuse him or herself.

Alan Maki asked if they can word the bylaw so conflicts of interest are at the discretion of the Board.

Dan Walker proposed a preamble regarding conflicts of interest. The Board agreed to include it.

Phil asked the legal requirements for keeping information about early negotiations quiet.

Karen stated that anything submitted to the Planning Department is public information.

John Ormiston said that this Board is unlikely to see anything preliminary until they all view applications together.

The Board decided that the laws of nepotism do not apply to this Board.

Kent Myers asked if the Secretary section under Article VI (B) was necessary since Staff is performing that role.

Dan Walker said that if Staff does not perform that role, it defines the duties that the Secretary should be doing. He asked if the Board could be sued for their actions.

Karen noted that the OLB does not have decision-making power. The BCC makes decisions so only the county can be named in a lawsuit.

Dan Walker noted that Paul Wilson's suggestions were consistent with the decisions made by the Board.

John Vore asked if the BCC or OLB chairman should receive resignations or reapplications.

Dan Walker said from a Board standpoint it is pretty standard. That chair would be notified and would forward the letter to the BCC. He asked if the Board wanted to take a term-limit approach that the BCC would have to follow that or wanted to say that no term limits apply and the Board is subject to the governance process.

Dan Huls said that in general, if a Board member is willing, the BCC will reappoint the person although they have the option not to.

Phil noted that some bylaws require creation of an annual report.

Dan Walker noted it is up to the Board. They will likely do that but would prefer not to have it required as part of the bylaws because it binds Staff.

ii. Public Comment

Dan Huls stated that the Board did well and the Bylaws look fine.

Linda Dworak was amazed that the Board had the Bylaws essentially complete by their second meeting.

iii. Board Action

John Vore motioned to adopt Board Bylaws.

Jim Ellingson seconded the motion.

Gary Leese asked if it would be best to have the motion contingent upon approval of a final draft after corrections are made.

Dan Walker noted that was his intent. He stated that they could add comments at the public hearing when they are adopted.

Karen suggested that they will probably be adopted at a public meeting, but the Board will see the Bylaws again.

The vote was called; the members voted (11-0) to approve the Board Bylaws.

4. New Business

A. Educating the Board – Process, procedures and policies – The Board tabled this item due to lack of time.

B. Plan of Action – Formation of Subcommittees to manage workload: Technical & Conservation Review, Education, Communications

Dan Walker shared his idea about creating three Subcommittees of the Board: a Technical & Conservation Review Subcommittee, an Education Subcommittee, and a Communications Subcommittee. He said that the one he is most eager to create is the Technical & Conservation Review Subcommittee, which would be charged with looking at the criteria, vetting out the application process, and bringing a solid recommendation back to the Board at their next meeting. He noted it would be cumbersome to go through the criteria in a timely manner with the full Board. He also wanted to have the criteria ready so proposals can be submitted.

John Vore volunteered to chair the Technical & Conservation Review Subcommittee. **Alan Maki, Mike Pfileger, Phil Connelly, John Ormiston,** and **Dan Dunagan** volunteered to serve on the Subcommittee as well, with John Ormiston serving as an ex-officio member.

Dan Walker moved the agenda item regarding Education and Communication Subcommittees to the following meeting. He said his goal for the Communication Subcommittee is to provide regular feedback to the community and his goal for the Education Subcommittee is to find educational opportunities for the Board and other interested persons. The Education Subcommittee could include presentations on easements, appraisals, the valuation process, etc. He asked the Board to consider volunteering for one of these Subcommittees.

C. Schedule of Events – The Board tabled this item due to lack of time.

5. Communications from Staff

Vanessa asked the Board to leave their personal contact information in their folders and indicate what information the Board would like available to the public. She also noted that the folders will act their mailboxes.

Karen asked members to coordinate with the Chair of a committee for staff support. She noted that the meetings could also be held in a county-neutral location, such as the County's Administrative Building.

Dan Walker noted they had agreed to meet at the Teller Wildlife Refuge for the first three meetings and then consider moving.

John Ormiston concurred with Karen that the Board should work toward meeting at a county location.

Staff agreed to check if the Commissioners Meeting Room was available for the April 19 Board meeting.

6. Public Comment

Linda Dworak thanked the Board for their service and for including the public in the process. She asked what role the Board envisions for itself during the countywide zoning process (i.e., providing guidance to districts working on zoning maps, thinking of ways to preserve agriculture, etc.).

The Board said they would consider her question and respond at a later time.

Karen noted that Staff could provide a countywide zoning presentation to the Board as an education item.

7. Future Meeting dates and Proposed Agenda Items

- A. April 19, 2007, 6:30 pm – 8:30 pm, Commissioners Meeting Room
- B. May 17, 2007, 6:30 pm – 8:30 pm, Commissioners Meeting Room

8. Adjournment – John Vore motioned to adjourn the meeting at 9:03 p.m.